

Franklin County
WATER CONSERVANCY BOARD
Application for Change/Transfer
Record of Decision

SEP 13 2006

For Ecology Use Only
Received: _____
Date Stamp: _____
Reviewed by: _____
Date Reviewed: _____

Applicant: Jubilant LLC (Roger Bailie)

Application No: FRAN-06-03 (G3-23389C)

This record of decision was made by a majority of the board at an open public meeting of the Franklin County Water Conservancy Board held on September 7, 2006.

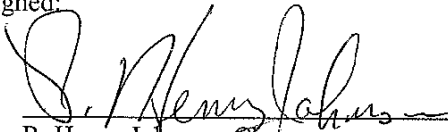
☒ **Approval:**

The Franklin County Water Conservancy Board hereby **grants** conditional approval for the water right transfer described and conditioned within the report of examination on September 7, 2006 and submits this record of decision and report of examination to the Department of Ecology for final review.

☐ **Denial:**

The Franklin County Water Conservancy Board hereby **denies** conditional approval for the water right transfer as described within the report of examination on _____, 2005 and submits this record of decision to the Department of Ecology for final review.

Signed:


R. Henry Johnson, Chair
Franklin County Water Conservancy Board

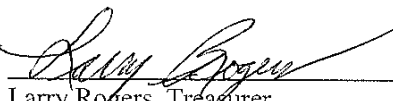
Date: 9-7-06

Approve ☒
Deny ☐
Abstain ☐
Recuse ☐

John Griffin, Vice Chair
Franklin County Water Conservancy Board

Date: _____

Approve ☐
Deny ☐
Abstain ☐
Recuse ☐


Larry Rogers, Treasurer
Franklin County Water Conservancy Board

Date: 9-7-06

Approve ☒
Deny ☐
Abstain ☐
Recuse ☐

Mailed to the Department of Ecology Eastern Regional Office of Ecology, via certified mail, and other interested parties on 9/12/06



Franklin County
WATER CONSERVANCY BOARD
Application for Change/Transfer
OF A RIGHT TO THE BENEFICIAL USE OF THE PUBLIC WATERS OF
THE STATE OF WASHINGTON

Report of Examination

☐ Surface Water ☒ Ground Water

DATE APPLICATION RECEIVED March 2, 2006	WATER RIGHT DOCUMENT NUMBER (i.e., claim, permit, certificate, etc.) G3-23389C	WATER RIGHT PRIORITY DATE July 5, 1974	BOARD-ASSIGNED CHANGE APPLICATION NUMBER FRAN-06-03
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NAME Jubilant L.L.C. (Roger Bailie)	(CITY) Connell	(STATE) WA	(ZIP CODE) 99326
ADDRESS (STREET) P.O. Box 267			

Changes Proposed: ☐ Change purpose ☐ Add purpose ☐ Add irrigated acres ☒ Change point of diversion/withdrawal
☒ Add point of diversion/withdrawal ☒ Change place of use ☐ Other (Temporary, Trust, Interests, etc.) _____

SEPA

The board has reviewed the provisions of the State Environmental Policy Act of 1971, Chapter 43.21C RCW and the SEPA rules, chapter 197-11 WAC and has determined the application is: ☒ Exempt ☐ Not exempt

BACKGROUND AND DECISION SUMMARY

Existing Right (Tentative Determination)

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE 1,500 gpm	MAXIMUM ACRE-FT/YR 1,370 ac-ft/yr	TYPE OF USE, PERIOD OF USE Irrigation of 548 acres from February 1 thru November 30 each year.			
SOURCE A well			TRIBUTARY OF (IF SURFACE WATER)			
AT A POINT LOCATED: PARCEL NO.	QUARTER SECTION NW1/4 NW1/4 SW1/4	SECTION 16	TOWNSHIP N. 15	RANGE 32 E.W.M	WRIA 36	COUNTY. Adams
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED						
548 acres within section 16, T. 15 N., R. 32 E.W.M						
PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,	

Proposed Use

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE 1,500 gpm	MAXIMUM ACRE-FT/YR 1,370 ac-ft/yr	TYPE OF USE, PERIOD OF USE Irrigation of 548 acres from February 1 thru November 30 each year.			
SOURCE Two (2) wells			TRIBUTARY OF (IF SURFACE WATER)			
AT A POINT LOCATED: PARCEL NO.	QUARTER SECTION	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
106-430-015		7	14	32 E.W.M	36	Franklin
109-480-028		12	14	31 E.W.M.	36	Franklin
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED						
548 acres within section 7, T. 14 N., R. 32 E.W.M. and the SE1/4 of section of section 12, T. 14 N., R. 31 E.W.M. and NW1/4 of section 18, T. 14 N., R. 32 E.W.M. and N1/2 of section 13 T. 14 N., R. 31 E.W.M.						
PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,	
106-430-015			7	14	32 E.W.M.	
109-480-028		SE1/4	12	14	31 E.W.M.	
106-540-021		NW1/4	18	14	32 E.W.M.	
109-490-017		N1/2	13	14	31 E.W.M.	

Board's Decision on the Application

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE 1,500 gpm	MAXIMUM ACRE-FT/YR 899.5 ac-ft/yr	TYPE OF USE, PERIOD OF USE Irrigation of 548 acres from February 1 thru November 30 each year.			
SOURCE Two (2) wells			TRIBUTARY OF (IF SURFACE WATER)			
AT A POINT LOCATED: PARCEL NO. 106-430-015 109-480-028	QUARTER SECTION SE1/4 SE1/4 NW1/4 SE1/4	SECTION 7 12	TOWNSHIP N. 14 14	RANGE 32 E.W.M 31 E.W.M.	WRIA 36 36	COUNTY. Franklin Franklin
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED						
548 acres within section 7, T. 14 N., R. 32 E.W.M. and the SE1/4 of section of section 12, T. 14 N., R. 31 E.W.M. and NW1/4 of section 18, T. 14 N., R. 32 E.W.M. and N1/2 of section 13 T. 14 N., R. 31 E.W.M.						
PARCEL NO. 106-430-015 109-480-028 106-540-021 109-490-017	1/4 SE1/4 NW1/4 N1/2	1/4 SE1/4 NW1/4 N1/2	SECTION 7 12 18 13	TOWNSHIP N. 14 14 14 14	RANGE, 32 E.W.M. 31 E.W.M. 32 E.W.M. 31 E.W.M.	

DESCRIPTION OF PROPOSED WORKS

Pressure irrigation using pumped groundwater from wells.

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE: November 30, 2006	COMPLETE PROJECT BY THIS DATE: November 30, 2016	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE: November 30, 2021
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REPORT

BACKGROUND [See WAC 173-153-130(6)(a)]

On March 2, 2006 Jubilant LLC (Roger Bailie) Connell, WA filed an application to change the place of use, add points of withdrawal, and change the point of withdrawal under Certificate No. G3-23389C. The application was accepted at an open public meeting on March 2, 2006, and the board assigned application number FRAN-06-03.

Attributes of the water right as currently documented

Name on certificate, claim, permit: Washington State Department of Natural Resources

Water right document number: G3-23389C

As modified by certificate of change number: n/a

Priority date, first use: July 4, 1974

Water quantities: Qi: 1,500 gpm Qa: 1,370 acre ft./ year

Source: A well

Point of diversion/withdrawal:

NW1/4 NW1/4 SW1/4 section 16, T. 15., R. 32 E.W.M.

Purpose of use: Irrigation of 548 acres.

Period of use: February 1 through November 30 each year.

Place of use: 548 acres within section 16, T. 15 N., R. 32 E.W.M.

Existing provisions: See attachment 1: water right certificate. This water right is within the area described by WAC 173-128A.

Tentative determination of the water right

The tentative determination is provided on the front page of this report.

History of water use

The Washington State Department of Natural Resources (DNR) developed four center pivot irrigation systems to utilize the subject water right. Due to declining water levels and the increased pumping costs, DNR decided to sell the water right at public auction.

The Water Board reviewed use information from Department of Ecology files including staff site inspections and certificate holder disclosures. Also, aerial photo records at the Franklin Conservation District were reviewed. The Department of Ecology conducted a proof examination in June of 1984 and issued a certificate of water right in August of 1984. The evidence supports the conclusion that the right has been perfected and is in good standing, allowing continued use of water as indicated on the water right certificate.

Previous changes

No changes have been made to this right since the issuance of the water right certificate.

SEPA

The board has reviewed the proposed project in its entirety. This project is categorically exempt from SEPA based on the quantity of water involved. SEPA compliance has been met for the project.

Other

This water right is currently owned by the Washington State Department of Natural Resources. The water right was sold at a public auction to Jubilant LLC (Roger Bailie). Final ownership transfer to Jubilant LLC is contingent on successful transfer of the water right as requested in the change/transfer application.

COMMENT AND PROTESTS [See WAC 173-153-130(6)(b)]

Public notice of the application was given in the Franklin County Graphic on May 4 and May 11, 2006. The protest period ended on June 11, 2006. There were no protests received during the 30 day protest period. In addition, no oral and written comments were received at an open public meeting of the board or other means as designated by the board.

This transfer proposes moving the place of use from Adams County to Franklin County. A public hearing was held in Adams County in Ritzville on June 26th, 2006. No comments were received at the hearing.

INVESTIGATION [See WAC 173-153-130(6)(c)]

The following information was obtained from a site inspection conducted by Mark Nielson, Clerk to the Board, on June 26, 2006. technical reports, research of department records, conversations with the applicant, discussion with Washington State Department of Natural Resources and/or other interested parties.

Proposed project plans and specifications

The applicant proposes to change the point of withdrawal, add a point of withdrawal, and change the place of use to a location approximately 5 miles southwest of the current place of use and point of withdrawal (see attachment 7). The applicant proposes to use the subject water right in conjunction with water right Number 6335A to irrigate 1,268 acres in a cropping rotation that would include cover/green manure crops and irrigated organically grown row crops such as potatoes, sweet corn, and other vegetable and seed crops. The intent is to have the ability to rotate the irrigation to fulfill the full water duty of crops such as potatoes and then to either apply minimal or no irrigation to the cover/green manure crops. This in effect becomes a request for water spreading and as such an annual consumptive quantity calculation (ACQ) needs to be performed to determine the water available for transfer.

DEVELOPMENT SCHEDULE. Jubilant LLC would like to begin construction of this project by November 30, 2006. Complete construction is estimated to be completed by November 30, 2016 with water being put to full beneficial use by November 30, 2021.

Other water rights appurtenant to the property (if applicable)

Water right number 6335A is appurtenant to the SE1/4 of section 12, T. 14 N., R. 31 E.W.M., and all of section 7 in T. 14 N., R. 32 E.W.M. This water right allows for the use of 400 gallons per minute, 426 acre-feet per year for the irrigation of 720 acres from March 1 to November 1 and for 1 acre-feet per year continuously during the entire year for domestic supply. Currently, only an estimated 260 acres are being irrigated out of the 720 acres allowed.

Public Interest (groundwater only)

The proposed transfer is subject to RCW 90.44.100 and therefore, cannot be detrimental to the public interest, including impacts on any watershed planning activities. The Water Board finds that the changes requested are consistent with public

tentative determination differs from the Board's decision on the amount of water available for transfer. There are several circumstances that can cause the board's tentative determination to differ from the stated extent of the water right within water right documentation. Water right documents attempt to define a maximum limitation to a water right, rather than the actual extent to which a water right has been developed and maintained through historic beneficial use. Additionally, except for a sufficient cause pursuant to RCW 90.14.140, water rights, in whole or in part, not put to a beneficial use for five consecutive years since 1967 may be subject to relinquishment under Chapter 90.14.130 through 90.14.180 RCW. Water rights may additionally be lost through abandonment. The Board's tentative determination was based upon the following findings: 1) perfection of the water right as per the inspections documentation performed by the Department of Ecology, 2) maintenance of the water right as a certificate in good standing through the present time, 3) beneficial use as demonstrated by applicant information and cropping data and 4) verification of irrigation by review of aerial photos.

Because this transfer application involves a request for water spreading, an ACQ calculation must be performed. Only the ACQ is available for transfer. Attachment 8 presents the values and methodologies for the ACQ calculation. Based on these calculations, the Water Board finds that 899.5 acre-feet are available for transfer. The Boards decision reflects this ACQ determination.

IMPAIRMENT ANALYSIS.

The transfers cannot be approved if impairment to local existing rights will result. An impairment analysis was performed by the applicant's consultant, Dr. Kevin Lindsey of Kennedy/Jenks Consultants who is a licensed Geologist in Washington State. Based on a review of the of the Department of Ecology's Water Rights Application Tracking System and aerial photography from 2005, the nearest point of withdrawal for existing ground water users in the area appears to be approximately 2 miles from the proposed points of withdrawal. Dr. Lindsey's report calculates potential drawdown effects of pumping an additional 1,500 gallons per minute from the proposed points of withdrawal. While Dr. Lindsey's calculations show a small drawdown from the increased pumping he concludes that "Given the likely drawdown effects of multiple pumping wells in the Site area during the irrigation season on the CRBG aquifer(s), it is questionable whether or not these predicted effects could even be accurately measured at distances of over 2 to 3 miles from the proposed well."

The existing point of withdrawal and the proposed points of withdrawal are all in the Odessa Ground Water Management Subarea as defined by WAC 173-128A. The legislature established the Odessa Subarea due to concerns over declining ground water levels. However, neither the existing or proposed points of withdrawal or places of use are identified by Ecology as areas experiencing critical water level declines. Because this transfer will not increase the amount of water withdrawn from the aquifer, the transfer will not increase the rate of decline of the ground water level when compared to the status quo. Based on the data reviewed by the Board, this transfer will not likely cause any impairment to local existing water rights.

Geologic, Hydrogeologic, or other scientific investigations (if applicable)

A technical report identifying the source aquifer and conditions was prepared by the applicant's consultant (Kennedy/Jenks Consultants reports dated April 12th and April 28th, 2006). Groundwater and geologic stratigraphy in the area has also been studied by the Department of Ecology, U.S. Geological Survey, and Columbia Basin Ground Water Management Area. Based on the reports from Kennedy/Jenks, both the existing point of withdrawal, and an existing well owned by Jubilant LLC (which is one of the proposed new points of withdrawal) draw water predominantly from the Wanapum basalt with a lesser amount potentially being drawn from the upper Grande Ronde basalt. Therefore, it is concluded that this transfer will move water within the same body of public water.

CONCLUSIONS [See WAC 173-153-130(6)(d)]

Tentative determination (validity and extent of the right)

The Board has tentatively determined that a valid right exists and that the water available for transfer is in the following quantities:

1,500 gallons per minute, 899.5 acre-feet per year for the irrigation of 548 acres from February 1 through November 30th each year.

Relinquishment or abandonment concerns

The Water Board has determined that a portion of this water right may be subject to relinquishment.

Hydraulic analysis

See conclusions related to Impairment

Public Interest

The proposed changes/transfers will not be detrimental to the public interest.

DECISION [See WAC 173-153-130(6)(e)]

The Water Board's decision is to conditionally approve the requested change/transfer proposals. In full description for G3-23389C; this decision is to conditionally approve up to a maximum 1,500 gpm and 899.5 acre-feet per year for seasonal irrigation of 548 acres.

Sources to be two wells located as follows:

- 1) within SE1/4 SE1/4 NW1/4 section 7, T. 14 N., R. 32 E.W.M.
- 2) within SE1/4 section 12, T. 14 N., R. 31 E.W.M.

Place of Use to be: 548 acres within section 7, T. 14 N., R. 32 E.W.M.; and SE1/4 of section 12, T. 14 N., R. 31 E.W.M.; and NW1/4 of section 18 T. 14 N., R. 32 E.W.M.; and N1/2 of section 13, T. 14 N., R. 31 E.W.M.

In conditionally approving the subject applications, the Water Board must by statute advise the applicant that they are not permitted to proceed to effect the proposed transfers until a final decision is made by the director of the Department of Ecology.

PROVISIONS [See WAC 173-153-130(6)(f)]

Conditions and limitations

An approved measuring device shall be installed and maintained for the source(s) identified herein in accordance with the rule "Requirements for Measuring and Reporting Water Use", Chapter 173-173 WAC. Water use data shall be recorded weekly and shall be submitted annually to Ecology by January 31st of each calendar year typically.

The rule above describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed or available from Ecology as a document entitled "Water Measurement Device Installation and Operation Requirements"

At a minimum, the following information shall be included with each submittal of water use data: owner, contact name if different, mailing address, daytime phone number, WRIA, Permit or Certificate No., source name, annual quantity used including units, maximum rate of diversion including units, period of use, monthly meter readings including units, and peak flow including units for each month. In the future, Ecology may require additional parameters to be reported or more frequent reporting.

Ecology prefers web based data entry, but does accept hard copies. Ecology will provide forms and electronic data entry information.

Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions, but only to the extent otherwise allowed by law.

The amount of water granted is a maximum limit that shall not be exceeded and the water user shall be entitled only to that amount of water within the specified limit that is beneficially used and required for the actual crop grown on the number of acres and the place of use specified.

This authorization to make use of public waters of the State is subject to existing rights, including any existing rights held by the United States for the benefit of Indians under treaty or otherwise.

Installation and maintenance of an access port as described in Ground Water Bulletin No. 1 is required. An airline and guage may be installed in addition to the access port.

If water from facilities of any legally formed irrigation district is used on any or all of the lands described herein as the place of use, the quantities of water withdrawn under this authorization shall be proportionately reduce to correspond to the acreage for which district water is not available.

All water wells constructed within the state shall meet the minimum standards for construction and maintenance as provided under Chapter 18.104 RCW (Washington Water Well Construction Act of 1971) and Chapter 173-160 WAC (Minimum Standards for Construction and Maintenance of Water Wells)

Continued

Mitigation (if applicable)

No mitigation requirements apply.

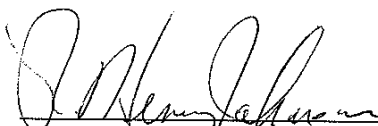
Construction Schedule

Completion of Construction is due November 30, 2016 and Proof of Appropriation is due November 30, 2021.

Other

n/a

Signed at Pasco, Washington
This 7th Day of September, 2006

A handwritten signature in black ink, appearing to read "R. Henry Johnson", written over a horizontal line.

R. Henry Johnson, Chair
Franklin County Water Conservancy Board

For attachments not included or for more information please contact:

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